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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,081	01/17/2002	Rangamani Sundar	110014.134	9830
22917	7590	11/09/2005	EXAMINER	
MOTOROLA, INC. 1303 EAST ALGONQUIN ROAD IL01/3RD SCHAUMBURG, IL 60196			MEHRA, INDER P	
			ART UNIT	PAPER NUMBER
			2666	

DATE MAILED: 11/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. <b>10/052,081</b>	Applicant(s) SUNDAR ET AL.	
	Examiner Inder P. Mehra	Art Unit 2666	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/8/02</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This is in response to application dated: 1/17/02.

#### ***Specification***

2. The disclosure is objected to because of the following informalities:  
Refer to page1, paragraph entitled "Cross Reference to Related Applications".  
"Provisional Application" No. is not provided.  
Appropriate correction is required.

#### ***Oath/Declaration***

3. "Provisional Application" No. is not provided to claim priority.  
Appropriate correction is required.

#### ***Drawings***

4. Figures 1 and 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the 802.xx spectrum" in line 6. There is no antecedent basis for this limitation in the claim. This limitation is followed by "an 802.xx WLAN" in lines 7 and 9, which has no antecedent basis. Similar problem exists in claims 2, 6 (line 3), 7, 18,

Claim 1 recites the limitation "802.xx" in claims 1-9, 13, and 18. This limitation is indefinite, because it is not clear as to the indefinite meaning of "xx" appended to "802".

Claims 1, 10, 13 and 18 recite the limitation "capable of servicing". Under MPEP § 2106, page 2100-8, "the subject matter of a properly construed claim is defined by the terms that limit its scope. It is this subject matter that must be examined. As a general matter, the grammar and intended meaning of terms used in a claim will dictate whether the language limits the claim scope. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. Therefore, the limitations following "capable" have not been considered.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 1, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over

**Dowling** (US Patent No. 6,901,429) in view of **Black et al** (US Patent Application No.

2005/0013275), hereinafter, **Black**.

For claims 1, 18 and 19, Dowling discloses, in reference to fig. 3, A method of selecting an air interface protocol for a mobile station to use, wherein the mobile station includes (a) logic to communicate according to an 802.xx wireless local area network air interface protocol (WLAN logic), (b) logic to communicate according to a wireless wide area network air interface protocol (WWAN logic), and (c) logic to select one of the WLAN logic and the WWAN logic to communicate on an air interface, (refer to fig. 3 and col. 14 line 66 through col. 15 line 30) the method comprising:

Dowling does not disclose expressly the following limitations, which are disclosed by **Black**, as follows:

the mobile station detecting RF energy in the 802.xx spectrum,, refer to paragraphs 0033 and 0043 ;

- in response to the energy detection step, determining whether there is an 802.xx WLAN capable of servicing the mobile station by performing a scanning operation; and if there is an 802.xx WLAN capable of servicing the mobile station, the mobile station selecting the WLAN logic, refer to paragraph 0033 and 0043.
- It would have been obvious to the person of ordinary skill in the art at the time the invention to use the capability of “in response to the energy detection step,

determining whether there is an 802.xx WLAN capable of servicing the mobile station by performing a scanning operation; and if there is an 802.xx WLAN capable of servicing the mobile station, the mobile station selecting the WLAN logic, as taught by Black. The capability can be implemented in the mobile station. The motivation for using this capability is to facilitate dynamics channel frequency selection pursuant to the dynamic frequency selection in an infrastructure free network.

***Allowable Subject Matter***

9. Claims 2-17 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 2-17 and 20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Prior Art of Record***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Chang (US Patent Application publication No. 2003/0043773) discloses dynamic link switching of forward and reverse links for a wireless connection in the presence of multiple wireless networks.

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***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Inder P. Mehra whose telephone number is 571-272-3170. The examiner can normally be reached on Monday through Friday from 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Inder Pal Mehra*

Inder P Mehra

Examiner

Art Unit 2666

11/2/05

*DM*

DANGTON  
PRINCEWILL